



THE TULALIP TRIBES

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NATURAL AND CULTURAL RESOURCE DEPARTMENT

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The Tulalip Tribes are the
successors in interest to the
Snohomish, Snoqualmie, and
Skykomish tribes and other
tribes and band signatory to
the Treaty of Point Elliott

September 18, 2012

Dennis McLerran, Regional Administrator
Environmental Protection Agency—Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

RE: Washington Department of Ecology Failure to Promulgate Fish Consumption Rates

Dear Administrator McLerran,

Sixteen years ago the Tulalip Tribes, together with the Squaxin Island Tribe, published the results of our fish consumption survey. The results of this scientifically reviewed study (Toy, et al., 1996) indicated that our tribal members consume, despite diminished and less accessible populations of fish and shellfish, dramatically higher amounts of fish than is assumed under the State of Washington's current rate of approximately 6.5 grams/day. After years of hard work and collaboration with the State, and after many promises to the Tribes to establish human health criteria and update their default fish consumption rate, Ecology appears to have bowed to pressure from industry, and is further delaying this critical process.

The revised approach from Ecology represents a reversal of previous commitments made. Ecology asked that tribes wait until a numeric default FCR was established in the state's sediment management standards for toxic cleanup. Ecology no longer intends to include a default FCR in the sediment management standards. Tribes have lost two years waiting for this process to conclude, and our confidence in Ecology's ability to adopt a protective standard has been severely weakened.

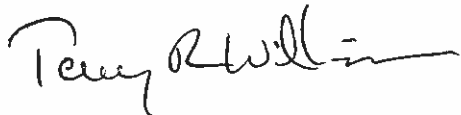
Ecology has published a revised version of the technical support document fish consumption rates, which was previously published in September, 2011. The revised version lacks the substance of the earlier version, which included important public health recommendations affecting tribal people. Ecology has stripped the document of essential technical recommendations related to a default range for fish consumption rates that would protect public health.

All parties, including the Environmental Protection Agency, Department of Ecology, tribes, and many businesses have agreed that the existing fish consumption rate is not accurate, and is a fraction of actual fish consumption. The Department of Ecology has known for years that existing

rates do not adequately protect Washington residents—and that tribal communities are at higher risk of toxic exposure. Nonetheless, the state appears unable to take action in a way that is timely and responsive to the scientific data they have had in front of them. Instead, Ecology is disguising the lack of substantive action with a new round of time consuming, process-based initiatives.

Tribes are committed to ensuring that fish consumption rates in the state's water quality standards protect our tribal members, and the real quantities of fish and shellfish that they eat. Given the sixteen years that have passed since Tulalip's fish consumption study was completed and results shared with EPA and Ecology, we believe it is high time for action, *not* more process. The State of Oregon has adopted 175 g/day FCR in response to tribal and other scientifically sound data, in order to be protective of the public health of its residents. We cannot afford to stand by any longer while this political football is tossed back and forth. We are asking the Environmental Protection Agency, as our federal trustee, to intervene and establish an interim protective and accurate FCR until such time that the State of Washington can provide the same.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Williams", with a stylized flourish at the end.

Terry Williams, Commissioner Fisheries and Natural Resources

Cc: Tulalip Chairman and Board of Directors